IRA INHERITANCE PROTECTION TRUST™

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* **Attorney Timothy P. Crawford has been Board Certified as an Elder Law Attorney by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by The American Bar Association**

This pamphlet is issued to inform, not to advise. This pamphlet is not intended to render specific legal advice. For specific legal advice, see Attorney Timothy P. Crawford.

An IRA Inheritance Protection Trust™ is a specially designed Trust that deals with the IRA you leave to your children. We named it an IRA Inheritance Protection Trust™, but it can be used for a 401k, 403b, and any other qualified retirement account.

The two primary purposes of this Trust are to 1) stretch out the retirement account and 2) protect the retirement account. So, the two things to remember are "stretch" and "protect".

This specially designed Trust is needed to help save money on taxes, so your children do not pull all the money out of the IRA you leave them and pay an unnecessarily large tax bill. Rather than have them pay that large tax bill, we want them to defer taxes just as you did. This is the "stretch" idea. Too many children blow out the IRA rather than stretch it out.

The **IRA Inheritance Protection Trust™** is also needed to protect the asset after you die. This is because if your children get sued or go bankrupt, an inherited IRA is not protected from creditors the way your own IRA is protected. The Supreme Court of the United States changed how we view IRAs in estate planning when it stated that inherited IRAs are not protected from creditors in *Clark v. Rameker*, 134 S. Ct. 2242 (2014).

Previously, IRAs were viewed as protected assets whether it was your IRA or the one you inherited, and as a result no further asset protection planning was needed.

Now we know an inherited IRA is exposed to creditors. Keep in mind that younger generations generally don't have pensions any more, so the IRA you leave them may be the best, or only, retirement account they will ever have.

How Does the IRA Inheritance Protection Trust™ Work?

Your **IRA Inheritance Protection Trust™** is a revocable trust. This means you can change it at any time, and you don't need anyone's permission to make the changes. You do not transfer real estate or other assets to this trust. The **IRA Inheritance Protection Trust™** is a stand alone, separate trust that deals only with your qualified retirement accounts, i.e. your IRA, 401k, 403b etc. After you (or you and your spouse) die, your IRA will have your **IRA Inheritance Protection Trust™** listed as a beneficiary (technically, each subtrust would be the beneficiary).

The **IRA Inheritance Protection Trust™** then lists your children as beneficiaries of the Trust. Your children are not, however, owners of the IRA because if they were, the IRA you left them would not be protected from creditors. Your children can control all the investment decisions, but an independent trustee is named to control the distributions from the IRA to your children.

How Does the IRA Inheritance Protection Trust™ Reduce Income Taxes?

Money withdrawn from an inherited IRA is taxed as ordinary income (unless it is a Roth IRA). Study after study shows when children inherit an IRA, 84% of the time they immediately withdraw all the money and they pay the higher income taxes on it. Your **IRA Inheritance Protection Trust™** prevents your children who inherit the IRA from taking all the money out at once forcing the child to pay more income taxes than necessary.

In addition, the money held inside the **IRA Inheritance Protection Trust™** can now grow tax deferred for another generation!

***Clark v. Rameker*, 134 S. Ct. 2242 (2014)**

This is the case that changed the way inherited retirement accounts are treated. Essentially, the Supreme Court of the United States distinguished inherited retirement accounts from your personal retirement account based on three factors:

1) With an inherited IRA you cannot put any money in it.
2) You can withdraw money without penalty even though you are not 59 ½.
3) You must take out required minimum distributions before you turn 70 ½.

None of these three factors are true with respect to your own IRA.

Thus, the Supreme Court reasoned, congress, when they pass the IRA down, and the bankruptcy down, never intended to protect inherited IRAs. The decision was unanimous, meaning, all nine justices agreed. Thus, this is now the law of the land in all 50 states. Your Broker may not even be aware of this serious problem. Today you need to create your **IRA Inheritance Protection Trust™** to solve this problem. Call Attorney Timothy P. Crawford today and we can resolve this problem.

What Is A Certified Elder Law Attorney?

Less than 20 attorneys from the State of Wisconsin have passed the national exam out of over 800 Elder Law Attorneys that we have in the State of Wisconsin.

Attorney Timothy P. Crawford was the first Attorney to have passed the exam to become **Board Certified**. He has been **Nationally Board Certified** as an **Elder Law Attorney** by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

What Is Your Next Step?

To get more information concerning the above, call for your free conference. Please call Attorney Timothy P. Crawford at 262-634-6659. We have offices located in Brookfield, Glendale, Oak Creek and Racine.

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